



COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION

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CITY OF NEWPORT BEACH ZONING ADMINISTRATOR STAFF REPORT

September 26, 2012
Agenda Item 1

SUBJECT: Cucina Alessa Alcohol MUP - (PA2012-100)
6700 W. Coast Highway
▪ Minor Use Permit No. UP2012-017

APPLICANT: Cucina Alessa, Inc., dba "Alessa"

PLANNER: Benjamin Zdeba, Assistant Planner
(949) 644-3253, bzdeba@newportbeachca.gov

ZONING DISTRICT/GENERAL PLAN

- **Zone:** CV (Commercial Visitor-Serving)
- **General Plan:** CV (Visitor Serving Commercial)

PROJECT SUMMARY

A minor use permit to amend Use Permit No. UP1791 to allow an existing eating and drinking establishment (Food Service - No Late Hours) to change its Alcoholic Beverage Control (ABC) license from a Type 41 (On-Sale Beer and Wine – Eating Place) to a Type 47 (On-Sale General – Eating Place). There are no proposed changes to the existing floor plan and hours of 11:00 a.m. to 10:00 p.m., Monday through Thursday, 11:00 a.m. to 11:00 p.m., Friday, and 8:00 a.m. to 10:00 p.m., Saturday and Sunday.

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Draft Zoning Administrator Resolution No. ZA2012-### approving Minor Use Permit No. UP2012-017 (Attachment No. ZA 1).

DISCUSSION

- Eating and Drinking Establishment (Food Service – No Late Hours) is a permitted land use within the CV (Commercial Visitor-Serving) Zoning District subject to securing a minor use permit when closer than 500 feet to a residential zoning district.
- The entitlement for the existing restaurant was granted with the approval of Use Permit No. UP1791 on June 3, 1976 which included the allowance of on-sale beer and wine.
- The applicant is proposing to change the existing Type 41 (On-Sale Beer and Wine – Eating Place) ABC license to a Type 47 (On-Sale General – Eating Place) ABC license.
- Pursuant to Zoning Code Section 20.48.090.F.2 (Eating and Drinking Establishments – Permit Requirements – Existing Establishments), a use permit is required when there is a proposed change in type of retail liquor license from the Department of Alcoholic Beverage Control.
- There are no proposed changes to the floor plan and hours of operation.

ENVIRONMENTAL REVIEW

This action is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects that have the potential for causing a significant effect on the environment (Section 15061.b.3 of the CEQA Guidelines). It can be seen with certainty that there is no possibility that changing the alcohol license type for the existing restaurant will have a significant effect on the environment. Therefore, this activity is not subject to CEQA.

PUBLIC NOTICE

Notice of this application was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 10 days prior to the decision date, consistent with the provisions of the Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

APPEAL PERIOD: An appeal may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line

adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

Prepared by:



Benjamin M. Zdeba
Assistant Planner

GR/bmz

Attachments:	ZA 1	Draft Resolution
	ZA 2	Vicinity Map
	ZA 3	Applicant's Description and Justification
	ZA 4	Police Department Memo
	ZA 5	Existing Floor Plan

Attachment No. ZA 1

Draft Resolution

RESOLUTION NO. ZA2012-0##

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2012-017 TO AMEND USE PERMIT NO. UP1791 FOR A CHANGE IN ALCOHOLIC BEVERAGE LICENSE TYPE TO ALLOW A TYPE 47 (ON-SALE GENERAL – EATING PLACE) FOR AN EXISTING RESTAURANT LOCATED AT 6700 WEST COAST HIGHWAY (PA2012-100)

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Michael Cho, Esq. on behalf of Cucina Alessa, Inc., dba “Alessa”, with respect to property located at 6700 West Coast Highway, and legally described as Parcel Map Book 100, Page 4, Parcel 1 requesting approval of a minor use permit.
2. The applicant proposes a change to the existing restaurant’s Alcoholic Beverage Control (ABC) license from a Type 41 (On-Sale Beer and Wine – Eating Place) to a Type 47 (On-Sale General – Eating Place). There are no proposed changes to the existing floor plan and hours.
3. The subject property is located within the CV (Commercial Visitor-Serving) Zoning District and the General Plan Land Use Element category is CV (Visitor-Serving Commercial).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is CV-A (Visitor Serving Commercial - (0.0 - 0.75 FAR)).
5. A public hearing was held on September 26, 2012 in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

This action is covered by the general rule that the California Environmental Quality Act (CEQA) applies only to projects that have the potential for causing a significant effect on the environment (Section 15061.b.3 of the CEQA Guidelines). It can be seen with certainty that there is no possibility that this activity will have a significant effect on the environment. Therefore, this activity is not subject to CEQA.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

- A. *The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales of the Zoning Code).*

Facts in Support of Finding

- i. *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*
1. The subject property is located in Reporting District 17 (RD 17). The Part One Crimes crime rate in RD 17 is lower than in the adjacent reporting districts (RD 16 and RD 24), and higher than the City overall. Although the crime rate is higher than the City average, the Police Department has reviewed the proposal, provided operating conditions of approval, and has no objection to the change in alcoholic beverage license type.

Reporting District	Part One Crimes (Serious offenses)	Part Two Crimes (All other offenses)	Part One Crimes Rate (per 100,000 people)
17	89	126	3,960.84
16	116	221	5,162.44
24	111	190	4,939.92
Newport Beach	2,405	3,343	2,816.95

- ii. *The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*
1. The number of alcohol-related calls for service, crimes, or arrests in RD 17 is lower than in the adjacent reporting districts (RD 16 and RD 24).

Reporting District	DUI/Drunk Arrests	Total Arrests	Calls for Service
17	48	115	1,890
16	106	225	2,753
24	63	168	3,607
Newport Beach	1,297	3,343	66,374

- iii. *The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*

1. The General Plan designates the site as Visitor-Serving Commercial. The surrounding properties to the North and East are currently developed with residential dwelling units. The nearest recreational facility, West Newport Park, is located approximately 1,850 feet to the east of the subject property. The nearest church, Saint Andrew's Presbyterian Church, is located approximately 2.8 miles northeast of the subject property. The project site is not located near a school or similar use. A restaurant has been operating on the site since 1976 and the proposed change of ABC license type is not anticipated to alter the operational characteristics of the restaurant such that it becomes detrimental to the area.
- iv. The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.*
 1. There are three comparable establishments along West Coast Highway which provide alcohol service to patrons. These include The Spaghetti Bender, Eat Chow, and Cappy's Café. The Spaghetti Bender and Eat Chow operate with a Type 41 (On-Sale Beer and Wine – Eating Place) and Cappy's Café operates with a Type 47 (On-Sale General – Eating Place). The alcohol license requested is the same as that obtained for Cappy's Café and there is no evidence suggesting this use or the above-mentioned similar uses have been detrimental to the neighborhood.
 2. Beach Corner Market and Café is located on the same site as Cucina Alessa and is operating with a Type 21 (Off-Sale General) as a convenience and liquor store. The operational conditions of approval provided by the Police Department will ensure there is no conflict or detriment to the area.
- v. Whether or not the proposed amendment will resolve any current objectionable conditions*
 1. The property has historically been used by a restaurant that included service of beer and wine. As such, there are no current objectionable conditions to be resolved since alcohol service has previously been a part of the business operation at this location.
 2. The project has been reviewed and conditioned to ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code is maintained and that a healthy environment for residents and businesses is preserved. The service of alcohol is intended for the convenience of customers dining at the restaurant. Operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts.
 3. The hours of operation will minimize the potential effects on land use. The 11:00 p.m. closing hour will ensure the restaurant does not become a late night bar, tavern, or nightclub.
 4. The restaurant site is abutting West Coast Highway which is used by commuters and visitors alike. It is anticipated that the establishment will serve residents of the nearby

neighborhood as well as visitors to the beach area. Adding alcohol service to the menu will complement the food service and provide for the convenience of customers.

In accordance with Section 20.52.020.F of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

B. The use is consistent with the General Plan and any applicable specific plan;

Facts in Support of Finding

- B-1. The General Plan land use designation for this site is CV (Commercial Visitor-Serving). The CV designation is intended to provide areas appropriate for accommodations, goods, and services intended to serve primarily visitors to the City. The existing restaurant, including the proposed Type 47 ABC license is consistent with this land use category.
- B-2. Eating and drinking establishments are common in the vicinity and are frequented by the surrounding businesses, travelers that visit the City and residents of the City. The establishment is compatible with the land uses permitted within the surrounding neighborhood.
- B-3. The subject property is not part of a specific plan area.

Finding

C. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;

Facts in Support of Finding

- C-1. The site is located in the CV (Commercial Visitor-Serving) Zoning District. The restaurant, including the proposed Type 47 ABC license is allowed subject to the approval of a minor use permit.

Finding

D. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;

Facts in Support of Finding

- D-1. The operation of the interior of the restaurant is restricted to the closing hour of 11:00 p.m., daily. The closing hour is compatible with surrounding uses which are comprised of commercial businesses, restaurants, and residential.

- D-2. A restaurant has operated at this location since 1976 and the use has not proven detrimental to the area. This demonstrates the location's capability of operating as a compatible use with other land uses in the vicinity.
- D-3. The operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts. The project has been conditioned to ensure the welfare of the surrounding community so that the business remains a restaurant and does not become a bar or tavern. The project has been conditioned so that no dancing or live entertainment will be permitted on the premises.

Finding

- E. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and*

Facts in Support of Finding

- E-1. The building structure and site is designed and developed for an eating and drinking establishment. The design, size, location, and operating characteristics of the use are compatible with the surrounding neighborhood.
- E-2. Adequate public and emergency vehicle access, public services, and utilities are provided within the existing tenant space.

Finding

- F. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, a safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding

- F-1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.
- F-2. The food service, eating and drinking establishment will continue to serve the surrounding commercial and residential community locally and regionally. The proposed establishment provides dining services as a public convenience to the surrounding neighborhood. The continued service of alcohol will provide an economic

opportunity for the property owner to maintain a successful business at this location in a way which best serves the quality of life for the surrounding community.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2012-017, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen days after the adoption of this Resolution unless within such time an appeal is filed with the Director of Community Development in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.
3. This resolution supersedes Use Permit No. UP1791 and Outdoor Dining Permit No. OD2007-005, which upon vesting of the rights authorized by Minor Use Permit No. UP2012-017 (PA2012-100), shall become null and void.

PASSED, APPROVED AND ADOPTED THIS 26TH DAY OF SEPTEMBER, 2012.

Patrick Alford, Acting Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. This approval supersedes Use Permit No. UP1791 and Outdoor Dining Permit No. OD2007-005.
2. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
3. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Minor Use Permit or the processing of a new Use Permit.
4. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
5. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
6. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
7. The hours of operation for the restaurant and outdoor dining patio shall be limited to the hours of 8:00 a.m. and 11:00 p.m., daily.
8. A minimum of eight (8) on-site parking spaces shall be provided for the restaurant facility.
9. All employees shall park on-site.
10. The accessory outdoor dining shall be used in conjunction with the related adjacent food establishment and shall be limited to 130 sq. ft. maximum unless an amendment to this minor use permit is approved.
11. The hours of operation of the outdoor dining area is limited to between the hours of 8:00 a.m. and 10:00 p.m., daily; and any increase in the hours of operation shall be subject to separate review and approval.
12. The operator of the restaurant facility shall be responsible for the control of noise generated by the subject facility. The use of outside loudspeakers, paging system or sound system shall be prohibited in the outdoor dining area or outside of the building. The noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code. Chapter 10.26 provides, in part, that the sound shall be limited to no more than depicted below for the specified time periods:

	Between the hours of 7:00 a.m. and 10:00 p.m.		Between the hours of 10:00 p.m. and 7:00 a.m.	
	<u>interior</u>	<u>exterior</u>	<u>interior</u>	<u>exterior</u>
Measured at the property line of commercially zoned property:	N/A	65 dBA	N/A	60 dBA
Measured at the property line of residentially zoned property:	N/A	60 dBA	N/A	50 dBA
Residential property:	45 dBA	55 dBA	40 dBA	50 dBA

13. Should problems arise with regard to noise associated with the outdoor dining areas, the Planning Division shall require the removal of all or a portion of the outdoor dining area seating in the areas which contribute to the noise problems or complaints.
14. Should problems arise with regard to tables, chairs or stools encroaching into the public right-of-way, public walkway or other common area pathways, the Planning Division reserves the right to require the relocation of the railing/fence and removal of all or a portion of the outdoor dining area seating and/or the use of unitized table and chair construction.
15. Alcohol service shall be limited to a Type 47 (On Sale General – Eating Place) Alcoholic Beverage Control License.
16. All owners, managers, and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for serving and selling alcoholic beverages.
17. A special event permit may be required for any event or promotional activity outside the normal operational characteristics of the proposed operation. For example, events likely to attract large crowds, events for which an admission fee is charged, events that include any form or contract promoters, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
18. Approval does not permit the restaurant to operate as a bar, tavern, cocktail lounge, or nightclub as defined by the Municipal Code.
19. Full menu food service shall be available for ordering at all times that the restaurant establishment is open for business.
20. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
21. Food from the full service menu must be made available during any “happy hour” type of reduced price alcoholic beverage promotion. There shall be no reduced price alcoholic beverage promotion after 9:00 p.m.

22. VIP passes or other passes to enter the establishment, as well as door charges, cover charges, or any other form of admission charge, including minimum drink order or sale of drinks is prohibited.
23. The use of private (enclosed) "VIP" rooms or any other temporary or permanent enclosures separate from public areas are prohibited.
24. Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
25. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.
26. There shall be no on-site radio, television, video, film, or other electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved special event permit issued by the City of Newport Beach.
27. Strict adherence to maximum occupancy limits is required.
28. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
29. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
30. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies.
31. Prior to implementation of this minor use permit, a solid roof shall be added to the existing trash enclosure for aesthetic and screening purposes. Said roof shall remain closed at all times, except when being loaded or while being collected by the refuse collection agency.
32. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).

33. Trash generated by the establishment shall be adequately contained in sealed plastic bags to control odors prior to placement in the trash dumpster.
34. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Community Development Director, and may require an amendment to this Minor Use Permit.
35. No live entertainment or dancing shall be permitted in conjunction with the permitted use.
36. No outside loudspeaker or paging system shall be permitted in conjunction with the proposed operation and outdoor dining establishment.
37. The operator of the food service use shall be responsible for the clean-up of all on-site and off-site trash, garbage, and litter generated by the use and shall submit a detailed plan for the policing of the surrounding vicinity for compliance with this condition. Additionally, the area outside of the food establishment, including the public sidewalks, shall be maintained in a clean and orderly manner and may be subject to periodic steam cleaning of the public sidewalks as required by the Community Development Department.
38. This Minor Use Permit may be modified or revoked by the Zoning Administrator should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
39. Use Permit No. UP2012-017 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
40. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Cucina Alessa Alcohol Minor Use Permit including, but not limited to, Minor Use Permit No. UP2012-017 (PA2012-100). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Attachment No. ZA 2

Vicinity Map

VICINITY MAP



Minor Use Permit No. UP2012-017
PA2012-100

6700 W. Coast Highway

Attachment No. ZA 3

Applicant's Description and Justification

APPLICANT: Cucina Alessa, Inc. dba "Alessa"
REQUEST: Approval of Conditional Use Permit Permitting the Upgrade from a Type 41 On-Sale Beer & Wine License to a Type 47 On-Sale of Beer, Wine & Distilled Spirits Alcoholic Beverage License in Conjunction With The Operation of the Existing Alessa Restaurant.
PROPOSED USE: Restaurant With On-Sale Service of Beer, Wine & Distilled Spirits
ADDRESS: 6700 W. Coast Highway, Newport Beach, CA 92663

PROJECT NARRATIVE

The proposed project is for the approval to upgrade an existing Type 41 On-Sale Beer & Wine license to a Type 47 On-Sale General (Beer, Wine & Distilled Spirits) license for an existing restaurant to be located at 6700 W. Coast Highway, Newport Beach. The existing restaurant is "Alessa" and is owned and operated by Alessandro Pirozzi. Alessa is a full service casual fine dining restaurant.

This request is to permit the sale of beer, wine and distilled spirits for on-sale consumption in conjunction with the operations of the restaurant. Service of beer, wine and distilled spirits is made for the convenience of patrons dining at the restaurant.

The subject property is located on W. Coast Highway. The site is bounded by other commercial/retail, office and residential uses. There has been a restaurant with a beer and wine license for over 30 years without incident. There have been no known complaints by residents adjacent to the restaurant. The restaurant will continue to serve the local residents of the surrounding community and tourists.

The proposed restaurant will have a total area of approximately 1,500 square feet. The existing restaurant will be open seven (7) days a week. The proposed hours of operation are 10:00 AM to 11:00 PM seven (7) days a week. Patio hours end at 10:00 PM. The restaurant seats 40 dining and 9 patio patrons.

The project will employ approximately 7 employees that would be on-site at one time.

The surrounding land uses are as follows:

North: Residential.
South: Residential.
East: Commercial/Retail.
West: Commercial/Retail.

APPLICANT: Cucina Alessa, Inc. dba "Alessa"
REQUEST: Approval of Conditional Use Permit Permitting the Upgrade from a Type 41 On-Sale Beer & Wine License to a Type 47 On-Sale of Beer, Wine & Distilled Spirits Alcoholic Beverage License in Conjunction With The Operation of the Existing Alessa Restaurant.
PROPOSED USE: Restaurant With On-Sale Service of Beer, Wine & Distilled Spirits
ADDRESS: 6700 W. Coast Highway, Newport Beach, CA 92663

USE PERMIT APPLICATION JUSTIFICATION

The proposed project is for the approval to upgrade an existing Type 41 On-Sale Beer & Wine license to a Type 47 On-Sale General (Beer, Wine & Distilled Spirits) license for an existing restaurant to be located at 6700 W. Coast Highway, Newport Beach. The existing restaurant is "Alessa" and is owned and operated by Alessandro Pirozzi. Alessa is a full service casual fine dining restaurant. The applicant proposes obtaining from the California Department of Alcoholic Beverage Control a Type 47 On-Sale Beer, Wine & Distilled Spirits Eating Place alcoholic beverage license. The proposed request meets the requirements set forth in the City of Newport Beach Municipal Code.

BURDEN OF PROOF:

- 1. The location, size design or operating characteristics of the proposed project will not be incompatible with and will not adversely affect and will not be materially detrimental to adjacent uses, residences, buildings, structures or natural resources, with consideration given to, but not limited to: (a) The adequacy of public facilities, services and utilities to serve the proposed project; (b) The suitability of the site for the type and intensity of use or development which is proposed; and (c) The harmful effect, if any, upon environmental quality and natural resources of the City; or**

Response: The proposed use is not inconsistent with the adjacent uses and will not materially affect the surrounding community or environment. The proposed project is ideally suited for the heavily travelled stretch of W. Coast Highway. The approval of the request that serves the local community and tourism, will not adversely affect the public's health, safety, welfare nor will it jeopardize or endanger the public. It will not be detrimental to the use, valuation or enjoyment of surrounding property owners or residents.

- 2. The impacts of the proposed project will not adversely affect the policies of the Newport Beach General Plan or provisions of the Newport Beach Municipal Code; or**

Response: The proposed use is consistent with the Newport Beach General Plan and provisions of the Municipal Code.

- 3. The project complies with all other regulations, conditions or policies imposed by the Municipal Code.**

Response: The existing shopping center and proposed use are subject to the all the regulations, conditions, policies or other requirements of the Municipal Code. No construction will be required. This is an existing restaurant that currently has a Type 41 On-Sale Beer & Wine license.

Attachment No. ZA 4

Police Department Memo

**City of Newport Beach
Police Department**

Memorandum

September 17th, 2012

TO: Benjamin Zdeba, Assistant Planner

FROM: Detective Mario Montero

SUBJECT: Cucina Alessa 6700 W. Coast Highway
Use Permit No. UP2012-017 (PA2012-100).

At your request, the Police Department has reviewed the project application for *Cucina Alessa* located at 6700 W. Coast Highway, Newport Beach. The applicant is requesting modification to the existing use permit to allow a Type 47 License (On-Sale General – Eating Place). The applicant currently possesses a valid Type 41 License (On-Sale Beer and Wine).

No changes in the occupancy, seating or general floor plan are planned for this application.

The Newport Beach Police Department reported only two calls for service related to the business from July 1st, 2011 to June 30th, 2012. Neither of the calls resulted in an arrest or other enforcement action.

Applicant History

Cucina Alessa is owned and operated by Alessandro Pirozzi. Pirozzi owns and operates two other Cucina Alessa restaurants, one in Laguna Beach and the other in Huntington Beach. The previous site in Newport Beach was also an Italian restaurant named Antonucci's. The site was first approved for use as a restaurant in 1976 and has remained so to this date.

Recommendations

The Police Department has no objection to the operation as described by the applicant.

Signs and Displays

Any signs or displays would need to conform to City requirements. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.

Hours of Operation

The current hours of operation allowed by permit are 8:00 am to 11:00 pm seven days a week. The outdoor patio may only operate from 8:00 am until 10:00 pm.

Security

The Police Department has no recommendations.

Employee Training

Require all owners, managers, and employees selling alcoholic beverages to undergo and successfully complete a certified training program in responsible methods and skills for serving and selling alcoholic beverages.

Other Recommended Conditions

To maintain quality of life for area residents and ensure the location remains a Bona-fide eating establishment, the Police Department has determined that the following conditions would be appropriate for the Conditional Use Permit for the business:

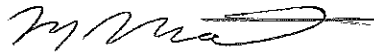
1. Food service from the regular menu must be available to patrons up to thirty (30) minutes before the scheduled closing time.
2. No "happy hour" type of reduced price alcoholic beverage promotion shall be allowed except when offered in conjunction with food ordered from the full service menu. There shall be no reduced price alcoholic beverage promotions after 9:00 p.m.
3. Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
4. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.
5. There shall be no on-site radio, television, video, film or other electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without

Cucina Alessa
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first obtaining an approved special event permit issued by the City of Newport Beach.

6. There shall be no live entertainment allowed on the premises.
7. There shall be no dancing allowed on the premises.
8. Strict adherence to maximum occupancy limits is required.
9. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.

If you have any questions, please contact Detective Mario Montero at (949) 644-3706.



Mario Montero, ABC/Vice/Intelligence
Detective Division



Dale Johnson, Captain
Detective Division Commander



Chief Jay R. Johnson

NEWPORT BEACH POLICE DEPARTMENT

Crime Analysis Unit

870 Santa Barbara Drive · Newport Beach · CA 92660 · 949-644-3791



CRIME AND ALCOHOL-RELATED STATISTICS

	<u>Calls For Service</u>	<u>Crimes</u>			<u>Arrests</u>				<u>Citations</u>	<u>ABC Info</u>	
		Part I Crimes	Part II Crimes	Crime Rate	All Arrests	DUI	Public Intoxication	Liquor Law	Alcohol Related	Active Licenses	License Per Capita
Subject: Cucina Alessa	3	0	2	not available	1	0	1	0	0	1	not applicable
Subject RD: RD 17	1,890	89	126	3,960.84	115	28	20	0	122	6	375
Adjacent RD: RD 16	2,753	116	221	5,162.44	225	38	68	1	249	8	281
Adjacent RD: RD 24	3,607	111	190	4,939.92	168	33	30	0	16	7	321
Newport Beach	66,374	2,405	3,343	2,816.95	3,177	643	654	7	1,245	394	217
California	not available	1,146,072	not available	3,076.38	1,357,573	195,276	105,388	17,007	not available	44,536	836
National	not available	10,329,135	not available	3,345.52	13,120,947	1,412,223	560,718	512,790	not available	not applicable	not applicable

Summary for Cucina Alessa (Reporting District 17)

RD 17 had a total of 215 reported crimes, compared to a city-wide reporting district average of 152 reported crimes. This reporting district is 63 crimes, or 41%, OVER the city-wide average.

The number of active ABC licenses in this RD is 6, which equals a per capita ratio of one license for every 375 residents. This location is within an RD that is OVER the Orange County and California per capita averages of ABC licenses.

Notes:

This report reflects City of Newport Beach data for calendar year 2011, which is the most current data available.

California and National figures are based on the 2010 Uniform Crime Report, which is the most recent edition.

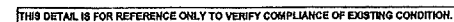
Crime Rate refers to the number of Part I Crimes per 100,000 people.

Number of Active ABC Licenses is the total of all types of licenses known to the NBPD as of the date of this document.

9/19/2012

Attachment No. ZA 5

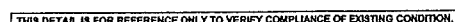
Existing Floor Plan



3 H.C. POLE SIGN



3 H.C. POLE SIGN



2 HANDICAPPED PARKING

1. ALL CONDITIONS SHOWN ARE EXISTING TO REMAIN, UNLESS NOTED OTHERWISE.
2. ITEMS INDICATED "E" ARE EXISTING TO REMAIN, ITEMS INDICATED "R" ARE TO BE RELOCATED, ITEMS INDICATED "N" ARE NEW.
3. BOUNDARY INFORMATION ON THIS PLAN TAKEN FROM CITY RESEARCH. SURVEY: NONE.
4. ELEVATIONS, IF SHOWN, ARE RELATIVE TO EXISTING FINISHED FLOOR.
5. ALL GRADES ARE EXISTING TO REMAIN.
6. ONLY MINOR NEW LANDSCAPING IS REQUIRED FOR THIS PROJECT: DESIGN/BUILD.

1. EXISTING ELECTRICAL MAIN SWITCH GEAR.
2. EXISTING GAS METER.
3. EXISTING WATER METER.
4. EXISTING FIRE HYDRANT.
5. EXISTING TRASH ENCLOSURE: NO CHANGE.
6. EXISTING VAN HANDICAPPED PARKING SPACE. VERIFY COMPLIANCE WITH DETAIL 6.1.2, & 3-50-1.
7. EXISTING CURB AND GUTTER. SEE FLOOR PLAN FOR MODIFICATIONS.
8. EXISTING ACCESSIBLE PATH OF TRAVEL: MAXIMUM 5% SLOPE IN DIRECTION OF TRAVEL.
(EXCEPT MAXIMUM 8.33% SLOPE AT RAMP) AND MAXIMUM 2% CROSS SLOPE.
9. NEW SITE ACCESSIBILITY SIGN. SEE BUILDING NOTE #8, SHEET 04-1 FOR CRITERIA.
10. NEW WASH MAT BASHIN WITH ROOF COVER. SEE FLOOR PLAN NOTES.
11. NEW CHAIN LINK GATE. SEE FLOOR PLAN NOTES.
12. EXISTING PALM TREE TO REMAIN (PER PLANNING DEPT. CRITERIA).
13. REPLACE EXISTING SHRUBBERY IN PLANTER, REPAIR EXISTING IRRIGATION SYSTEM AS REQUIRED.
14. PROVIDE NEW SHRUBBERY IN EXISTING PLANTER (PER PLANNING DEPT. CRITERIA). LANDSCAPING NOT TO EXCEED 2'-4" IN HEIGHT (PER TRAFFIC DEPT. CRITERIA). REPAIR EXISTING IRRIGATION SYSTEM AS REQUIRED.
15. NEW DETECTABLE WARNING BANDING: SEE FLOOR PLAN, SHEET A-1, FOR ADDITIONAL NOTES.



SCALE: 1/8" = 1'-0"

PA2012-100 for UP2012-017

6700 W. Coast Highway
Cucina Alessa Inc., dba "Alessa"

REV.	DATE	DESCR.	REV.	DATE	DESCR.
1		BOOTH	1		
2		BOOTH	1		

SHEET DESCRIPTION:

SITE PLAN

JOB NUMBER: DAA 07114

COMMERCIAL REMODEL
FOR:
CUCINA ALESSA RESTAURANT
6700 WEST COAST HIGHWAY
NEWPORT BEACH, CA 92663

♦ **ARCHITECTURE**
♦ **PLANNING**
♦ **INTERIORS**

2900 SILVER LANE
NEWPORT BEACH, CA 92660
(949) 645-1717 FAX: (949) 645-4243

